

Exhibit 3

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

4 SINGULAR COMPUTING LLC,)
5 Plaintiff) Civil Action
6) No. 19-12551-FDS
7 vs.)
8 GOOGLE LLC,)
9 Defendant)

10 BEFORE: CHIEF JUDGE F. DENNIS SAYLOR, IV

TELEPHONIC STATUS CONFERENCE

October 25, 2023
3:00 p.m.

1 APPEARANCES:

2 For The Plaintiff:

3 Sunstein LLP, by KERRY L. TIMBERS, ESQ.,
4 100 High Street, Boston, Massachusetts 02110;

5 For the Defendant:

6 Keker, Van Nest & Peters LLP, by ROBERT A. VAN NEST, ESQ.,
7 RACHAEL E. MENY, ATTORNEY, and DEEVA SHAH, ATTORNEY,
8 633 Battery March Street, San Francisco, California 94111.

9 Kwun, Bhansali, Lazarus LLP, by ASIM M. BHANSALI, ESQ.,
10 555 Montgomery Street, Suite 750, San Francisco, California
94111;

11 Wolf, Greenfield & Sacks, P.C., by NATHAN R. SPEED, ESQ.,
12 600 Atlantic Avenue, Boston, Massachusetts 02210.

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PROCEEDINGS

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THE CLERK: Court is now in session in the matter of
Singular Computing vs. Google LLC, Matter Number 19-12551.

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Participants are reminded that photographing,
recording or rebroadcasting of this hearing is prohibited and
may result in sanctions.

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Would counsel please identify themselves for the
record, starting with the plaintiff.

9

MR. TIMBERS: Yes, good afternoon, this is
02:59PM 10 Kerry Timbers for plaintiff, Singular.

11

THE COURT: Good afternoon.

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MR. VAN NEST: Good afternoon, your Honor, it's
13 Bob Van Nest, Keker, Van Nest & Peters for Google. I'm here
14 with my partner, Rachael Meny. Nathan Speed is on from Wolf,
15 Greenfield, and Asim Bhansali as well. We have a client rep
16 on, Ken Makish as well.

17

THE COURT: Good afternoon. This is a telephone
18 status conference in this case. Still pending and very much on
19 my desk, I guess I'll say as a metaphor, are the motions to
03:00PM 20 exclude various expert testimony, but where are we otherwise,
21 and in particular where do we stand on the matter of the
22 supplemental discovery? Mr. Timbers, let me turn to you first.

23

MR. TIMBERS: Yes, your Honor, thank you. We've had a
24 number of discussions between the parties counsel, and we feel
25 like both sides are satisfied with respect to the document

1 production so far. We have depositions scheduled and expect to
2 have those move ahead. Hopefully, there won't be any
3 additional issues that come up from those depositions, but if
4 there are, we would certainly start by trying to work
5 everything out like we have so far. If we need help, then
6 we'll come see your Honor, but I think we're in a very good
7 place with this, and the parties have worked hard to come to
8 agreements.

9 THE COURT: All right. Thank you, I appreciate that.

03:01PM 10 And what is the timetable for completion of those depositions?

11 MR. TIMBERS: I think currently the last deposition
12 will be done in the middle of November.

13 THE COURT: Okay. Mr. Van Nest.

14 MR. VAN NEST: Yes, your Honor, thank you. I'll note
15 that neither party is seeking any further relief from your
16 Honor, from the Court on this issue, and I concur with
17 everything he said, including that the depositions are
18 scheduled from now until mid-November. We expect to have them
19 done by then.

03:02PM 20 THE COURT: All right. Just to clear up the record,
21 there's a pending motion to take additional discovery, which
22 technically I haven't resolved. It's Number 560. I think what
23 I'm going to do is why don't I terminate that as moot without
24 prejudice to the renewal. In other words, if there's something
25 left that requires motion practice, I'm obviously not trying to

1 foreclose that but just so that the motion isn't dangling on
2 the docket, and, obviously, if something comes up that you
3 can't resolve, let's try to get it teed up and resolved.

4 In the meantime, I'm very much aware of the deadlines
5 coming down the pike, and we'll try to get my decisions out
6 without undue delay on the various witnesses.

7 Is there anything else that we need to talk about now?
8 Mr. Timbers.

9 MR. TIMBERS: Not from our perspective, your Honor.

03:03PM 10 THE COURT: All right. Mr. Van Nest.

11 MR. VAN NEST: There is one scheduling issue for the
12 Court, and that is this. You signed a stipulation earlier on
13 pretrial preparation and scheduling of things like exhibit
14 lists, witness lists and the like.

15 We moved the pretrial conference up to the 19th of
16 December, and the parties have agreed in light of that to move
17 the motion in limine deadlines up so that you get the motions
18 in limine and the oppositions all done roughly a week before
19 the 19th.

03:04PM 20 THE COURT: All right.

21 MR. VAN NEST: We'd like to submit that as a stip, but
22 the question for your Honor is we're hoping, I think all of us,
23 that the rest of the pretrial stuff, like the witness list, the
24 exhibit list, the pretrial memo, the joint one, we had
25 originally set to be filed on the 20th, which is after the

1 conference. We'd like to keep that in place, but if your Honor
2 wants some or all of that before the 19th, then we need to take
3 that into account.

4 THE COURT: I don't have a problem with that, with a
5 couple of caveats. The exhibit and witness list, the principal
6 reason for that, particularly exhibit list is to ensure an
7 orderly procedure and to make sure that everybody knows what
8 the universe of anticipated evidence is. I don't want to be
9 pausing to mark documents in the middle of the trial or having
03:05PM 10 a dispute about it or people can't figure out what Exhibit 17
11 is, and so I don't need that in advance of the pretrial
12 conference. If there's a dispute about the admissibility of
13 something, it would probably be teed up in a motion in limine.

14 MR. VAN NEST: That's right.

15 THE COURT: In terms of the pretrial memorandum, at
16 this juncture, I'd be surprised, I guess, if there was some new
17 issue in that that I hadn't seen before or wouldn't have seen
18 by December 19th, and I guess my exhortation and admonition to
19 you is if there is something that you think that is going to be
03:05PM 20 in that memo that I need to know about that you not wait until
21 it's filed on the 20th and so things aren't buried in the
22 holidays and all of that.

23 So I'll just leave it that way just as a matter of
24 sensible case management, I guess, judge management, you can
25 call it. You know, I don't want significant surprises, I want

1 to minimize them.

2 MR. VAN NEST: We'll take that as a fair warning, and
3 I think we both understand it, and if there are additional
4 issues, we'll make your Honor aware of them before the 19th. I
5 think in that event, we'll submit a stip to your Honor that
6 modifies the motion in limine schedule.

7 THE COURT: We might as well take care of it now.

8 MR. VAN NEST: Okay. The parties are in agreement
9 that the motion should be filed on December 5th and opposed on
03:06PM 10 the 13th.

11 THE COURT: Okay.

12 MR. VAN NEST: Of December, and that's roughly six
13 days before the 19th.

14 THE COURT: Right.

15 MS. YBARRA: That would be the only change to the
16 schedule, the rest of it would stay the way it is now.

17 THE COURT: All right. Matt, I'll ask you to issue an
18 electronic order amending the pretrial calendar accordingly.
19 Again, just as a matter of common sense, there are motions in
03:07PM 20 limine and motions in limine. Sometimes they involve a simple
21 statement that might or might not be within hearsay, sometimes
22 they're quite complex. The more complex the issue, the better
23 off I am anyway the earlier in advance you file it. These are
24 deadlines, and so if you think there is an issue of unusual
25 complexity or attention, I would encourage you to do it in

1 advance of the deadline so I have time to think about it, your
2 opponent has time to respond, I can think about whether I want
3 a separate hearing on that. Again, this all to my mind falls
4 under the heading of common sense of anticipating issues.

5 MR. VAN NEST: We'll take that to heart as well, thank
6 you.

7 THE COURT: And I understand the standard is not
8 perfection, that sometimes things get filed maybe later than
9 everyone might want, but, again, the more difficult the issue,
03:08PM 10 the more complex the issue, the longer in advance of the trial
11 I have to think about it, probably the better off all of us
12 will be, okay?

13 MR. VAN NEST: Perfect, thank you.

14 THE COURT: Mr. Timbers, anything else?

15 MR. KAMBER: Nothing else, your Honor, thank you.

16 THE COURT: Anything else, Mr. Van Nest?

17 MR. VAN NEST: No, your Honor.

18 THE COURT: I'm going to set this for another status,
19 it makes me feel comfortable, anyway. Why don't we do it after
03:08PM 20 the middle of November, maybe that stub week before
21 Thanksgiving, Matt, just so I can check in and see if there's
22 anything dangling on this discovery issue.

23 MR. VAN NEST: I think that -- excuse me.

24 THE COURT: Go ahead.

25 THE CLERK: How about --

1 MR. VAN NEST: Excuse me.

2 THE COURT: Go ahead, Mr. Van Nest.

3 MR. VAN NEST: I was just going to say I think there
4 will be some depositions early that week, so if we could do it
5 on say Thursday, the 16th, would be good.

6 THE COURT: I was thinking like the beginning of the
7 following week.

8 MR. VAN NEST: Thanksgiving week? Oh, okay.

9 THE COURT: And, again, we'll do it by telephone. I
03:09PM 10 don't want to interfere with anyone's family plans.

11 MR. VAN NEST: That's fine, too.

12 THE COURT: How about Monday, November 20th at 3:15
13 eastern time?

14 MR. TIMBERS: This is Mr. Timbers, that's fine, your
15 Honor, for us.

16 MR. VAN NEST: Also here, your Honor, November 20,
17 Monday at 12:15 pacific, 3:15 eastern?

18 THE COURT: Yes.

19 MR. VAN NEST: That's fine.

03:10PM 20 THE COURT: All right, thank you all.

21 MR. VAN NEST: Thank you.

22 MR. TIMBERS: Thank you.

23 (Whereupon, the hearing was adjourned at 3:10 p.m.)

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25

1 C E R T I F I C A T E
23 UNITED STATES DISTRICT COURT)
4 DISTRICT OF MASSACHUSETTS) ss.
5 CITY OF BOSTON)6 I do hereby certify that the foregoing transcript,
7 Pages 1 through 10 inclusive, was recorded by me
8 stenographically at the time and place aforesaid in Civil
9 Action No. 19-12551-FDS, SINGULAR COMPUTING LLC vs. GOOGLE LLC
10 and thereafter by me reduced to typewriting and is a true and
11 accurate record of the proceedings.

12 Dated November 13, 2023.

13 s/s Valerie A. O'Hara
14
15 VALERIE A. O'HARA
16 OFFICIAL COURT REPORTER
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